

SBCivil Writ Petition No.5810/2006

Hamir Khan
Vs.
State of Rajasthan & Ors.

Date of Order :: 9th October, 2006

HON'BLE MR.JUSTICE GOVIND MATHUR

Mr. K.K.Shah, for the petitioner.

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The petitioner was served with a memorandum under Rule 16 of the Rajasthan Civil Services (Classification, Control & Appeal) Rules, 1958 (hereinafter referred to as "the Act of 1958") with a statement of allegation alleging five charges. Being aggrieved by the same this petition for writ is preferred with a prayer to quash the impugned memorandum.

The contention of counsel for the petitioner while giving challenge to the memorandum referred above is that for the same charges an inquiry was conducted by the Sub Divisional Officer, Balotra and by an inquiry report dated 3.8.2006 (Anx.2) the petitioner was exonerated from all the allegations, as such the petitioner cannot be subjected to second inquiry for the same charges.

Heard counsel for the petitioner and also perused the entire record.

The inquiry report Anx.2 is not at all conducted by or under the instructions of the disciplinary authority of the petitioner. The inquiry report Anx.2 is an out come of an inquiry conducted under the instructions of Collector, Barmer arising out of some news item appeared in Dainik Bhaskar in its edition dated 8.2.2006. Such an inquiry cannot be equated with an inquiry sought to be made by the disciplinary authority under relevant disciplined and appeal rules. Such an inquiry is nothing but a kind of administrative inquiry conducted even without framing any definite charge and it does not preclude the disciplinary authority from initiating disciplinary proceedings on definite charges that is a quasi judicial proceeding. The Collector though hold such inquiry but is having no authority to impose a penalty under the relevant rules.

In view of it, I do not find any force in the contention raised by counsel for the petitioner. It is further pertinent to note that yet no regular inquiry is initiated as under the memorandum dated 18.9.2006 an explanation is sought from the petitioner for definite charges of misconduct and if the petitioner by submitting explanation satisfies the disciplinary authority that no misconduct was committed by him, the disciplinary authority may drop the proceedings by not

appointing any inquiry officer to inquire into the allegations levelled.

In view of whatever discussed above, the writ petition is dismissed.

(GOVIND MATHUR),J.

kkm/ps.